IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2729 OF 2005

Turbo Consultancy Services & Ors. ...Petitioners

vs.

Reliance Electronics & anr. ...Respondents

Mr.M.S.Karnik for the Petitioners
Ms S.V.Gajare, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 11,2006.

P.C.:

1. Heard Shri Karnik appearing for the Petitioners. The Petitioners are arraigned as accused in a complaint filed by the first Respondent under section 138 of the Negotiable Instruments Act, 1881. The learned Metropolitan Magistrate issued process on the said complaint. A Revision Application preferred by the Petitioners for challenging the order issuing process has been rejected by the Revisional Court.

2. The learned Advocate for the Petitioners submitted that the cheque in dispute was deposited by the first Respondent though he was clearly instructed not to deposit the cheque. He submitted that the cheque was dishonoured due to the instructions to stop payment issued by the Petitioners and not because there was no sufficient balance.

3. The Apex Court has held that if a complaint filed under section 138 of the said Act, read as a whole, shows that the ingredients of offence under section 138 of the said Act are

made out, the court should not interfere with the order issuing process. On plain reading of the complaint, in this case, I find that a prima facie case was made out by the first Respondent. The submissions which are made before the Sessions Court constitute defence of the Petitioners to the complaint. No case is made out for quashing the complaint.

Petition is rejected.

4. It is made clear that nothing mentioned in the order of this Court shall be construed as expression of opinion as regards merits of the pending complaint. All contentions of the Petitioners in the pending complaint are expressly kept open.

5. The learned Advocate for the Petitioners prays that ad-interim relief granted by this Court on 1st December 2005 be extended for a reasonable period.

6. Interim relief is extended by a period of six weeks from today.

JUDGE